

Could SCO v IBM happen to you?

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The players

- The SCO Group
 - As Caldera Systems bought Novell's IP
- AT&T
 - Original UNIX IP owner, sold to Novell
- IBM
 - Bought UNIX licence to develop AIX

What stage are we at?

- 6 March 2003 – SCO files its claim
- 12 May 2003 – warns Linux users
- 4 August 2003 – Red Hat pitches in
- 6 August 2003 – IBM counterclaims
- 9 January 2004 – cards on the table
- 11 April 2005 – the trial begins

What is SCO saying?

- IBM:
 - is in breach of its licence agreements for the UNIX code
 - has infringed SCO IP
 - has engaged in unfair competition
 - has interfered with contracts between SCO and its customers

What SCO claims IBM took

- SMP
- LVM
- 32 and 64 bit processing
- Journaling filesystem
 - Even though IBM developed JFS itself!
- Clustering

Intellectual Property Law 101

- Copyright
 - Protects the expression of ideas only
- Patents
 - Protects inventive ideas
- Trade secrets
 - Protects confidential information

When you are allowed to copy

- Copyright law does not apply where:
 - the software is in the public domain
 - for works too trivial to attract protection
 - the copying is not a substantial part
 - the copying is for a permitted purpose
 - only the ideas are copied

But I didn't copy anything!

- Trade secrets trump copyright law
- Patents trump copyright law
 - Even if you wrote the code yourself and didn't know you were copying
- A derivative work is an infringement
 - WTF is a derivative work?

How to protect yourself

- Chinese Walls
 - Separating developers
 - The jury is still out
- The buck stops with the developer
 - Declaration of code cleanliness
 - Indemnity against liability

More ways to protect yourself

- Choose the right licence
 - MPL and GPL require contributors to grant free patent licences
- Read up on patents
 - Check literature, competitive products
- Don't derive, plug in
 - The more independent, the safer

Conclusion

- Avoid being put in IBM's position:
 - Know your IP rights and obligations
 - Tie down developers and contributors
- The full paper
 - <http://jmalcolm.ilaw.com.au/>
- Questions?